United Nations **AT**

Administrative Tribunal

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ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 996

Case No. 992: ZIADEH

Against: The Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Kevin Haugh, Vice-President, presiding; Mr. Spyridon Flogaitis; Mr. Omer Yousif Bireedo;

Whereas, on 19 September 1999, Samih Ziadeh, a former staff member of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as UNRWA or the Agency), filed an Application in which he requested, in accordance with article 11 of the Statute of the Tribunal, the revision of Judgement No. 906 rendered by the Tribunal on 20 November 1998;

Whereas the Application contained pleas requesting the Tribunal:

"1. To order that the Respondent's decision to terminate my service be rescinded, and to order my reinstatement.

2. To order that the period from 6 March 1996 to the day of this order [is] with full pay;

OR:

In case of the [i]nability of my reinstatement:

1. To consider this case as an exceptional one.

2. To order compensation [in] the [a]mount of 177,408 US dollars the usual pay for 14 [year's] ... until [I] reach the age of retirement.

3. To order compensation for moral and psychological distress [in] the amount of 50,000 US dollars."

Whereas the Respondent filed his Answer on 6 February 2000;

Whereas the facts in the case were set forth in Judgement No. 906.

Whereas the Applicant's principal contentions are:

1. The amount of compensation awarded by the Tribunal in Judgement No. 906 was insufficient.

2. The Tribunal should reconsider its decision and either order reinstatement with back pay or award increased compensation.

Whereas the Respondent's principal contentions are:

1. The Application does not fulfil the preliminary requirements of an application for revision under article 11.

2. The Application does not identify the discovery of any fact, let alone a decisive fact, which was unknown to him and to the Tribunal at the time when the judgement was given.

3. The Application is a restatement of the Applicant's original application in case No. 992.

The Tribunal, having deliberated from 27 June to 23 July 2001, now pronounces the following judgement:

I. Following Judgement No. 906, dated 20 November 1998, the Applicant has filed a new Application requesting, *inter alia*, reinstatement and back pay from the date of his termination on medical grounds to the date of this judgement, or additional compensation for moral and psychological distress. In Judgement No. 906, the Tribunal ordered the Respondent to pay the Applicant compensation in the amount of two years net base salary, which he did. According to the Applicant, the amount of compensation was much less than expected and does not meet his requirements. He does not agree with the decision of the Tribunal and asks it to reconsider the amount of compensation awarded.

II. The Statute of the Tribunal contains no provision for appeals of its judgements. There is no power in the Tribunal to rehear applications on *ad misericordium* grounds or to alter earlier decisions merely because the Applicant is dissatisfied with the outcome. Accordingly, this application is not receivable on the grounds advanced by the Applicant.

III. The Tribunal considers, although the Applicant does not state this in so many words, that the Applicant's request could be taken as a request for revision of Judgement No. 906, under article 11 of the Statute of the Tribunal.

Article 11 stipulates that an applicant may apply for a revision of a judgement on the basis of the discovery:

> "... of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unknown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement."

The Tribunal notes that the Applicant makes no mention of such a newly discovered fact, but requests the Tribunal to rule again on his entitlements. In the view of the Tribunal, this request cannot be considered a valid request for revision. In this connection, the Tribunal recalls its Judgement No. 894, *Mansour* (1998), paragraph II, where it clearly stated that "[u]nder its Statute, the Tribunal's powers of revision of a judgement are strictly limited and may be exercised only upon

compliance with the conditions set forth in article 11. No party may seek revision of the judgement merely because that party is dissatisfied with the pronouncement of the Tribunal and wants to have a second round of litigation".

IV. In view of the foregoing, the Tribunal rejects the Application in its entirety.

(Signatures)

Kevin HAUGH
Vice-President, presiding

Spyridon FLOGAITIS
Member

Omer Yousif BIREEDO
Member

Geneva, 23 July 2001

Maritza STRUYVENBERG
Executive Secretary